

ROSE ART-40087

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of
Gennadi I. Fedorov et al.

Serial No. 10/749,953

Confirmation No. 8598

Filed: December 31, 2003

For: BOARD ASSEMBLY

Group Art Unit: 3637

I hereby certify that this correspondence
and/or fee is being deposited with the United
States Postal Service as First Class Mail in
an envelope addressed to Mail Stop Missing
Parts, Commissioner for Patents, P.O. Box
1450, Alexandria, VA 22313-1450 on

October 4, 2004
(Date of Deposit)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Deane M. Bodgrock October 4, 2004
(Signature) (Date)

PETITION UNDER 37 CFR 1.47(a)

Sir:

This Petition is being submitted under 37 CFR 1.47(a) concurrently with a Declaration and Power of Attorney (hereinafter "the Declaration") in response to the Notice to File Missing Parts of Nonprovisional Application mailed on August 3, 2004 in connection with the above-identified application.

The Declaration identifies the following three joint inventors for the present application: Mr. Gennadi I. Fedorov; Mr. Frederick B. Hadtke; and Mr. Kiat-Cheong Toh. While the Declaration has been signed by Messrs. Hadtke and Toh, it has not been signed by Mr. Fedorov. Based upon the facts set forth in the enclosed Statement of Facts, it has been concluded that Mr. Fedorov is refusing to sign an Oath or Declaration in connection with the present application.

The signature block in the Declaration for Mr. Fedorov has been left blank. In accordance with MPEP §409.03(a), it is respectfully requested that the Declaration be considered as having been signed by all of the available joint inventors (Messrs. Hadtke and Toh) on behalf of the non-signing joint inventor (Mr. Fedorov).

10/07/2004 GWORDOF1 00000063 501402 10749953

02 FC:1460 130.00 DA

In compliance with the requirements of 37 CFR 1.47(a), listed below is Mr. Fedorov's last known address:


Gennadi I. Fedorov
20 Deer Run
Andover, New Jersey 07821.

It is believed that this Petition satisfies all of the requirements set forth in 37 CFR 1.47(a). In such circumstances, it is respectfully requested that this application be considered as having been filed by all available joint inventors (Messrs. Hadtke and Toh) on behalf of the non-signing joint inventor (Mr. Fedorov) and that the application be accepted as a 37 CFR 1.47 application.

The Commissioner is hereby authorized to charge \$130 to Deposit Account No. 501402 for the \$130 petition fee set forth in 37 CFR 1.17(h). If any additional fees are due as a result of the submittal of this Petition, the Commissioner is authorized to charge them to Deposit Account No. 501402.

Respectfully submitted,

McCARTER & ENGLISH, LLP


By: John K. Kim
Reg. No. 37,002

McCARTER & ENGLISH, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 622-4444

NWK2: 1228517.01



ROSE ART-40087

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of
Gennadi I. Fedorov et al.

Serial No. 10/749,953

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Deane M. Rodzick October 4, 2004
(Signature) (Date)

STATEMENT OF FACTS IN SUPPORT OF PETITION UNDER 37 CFR 1.47(a)

Sir:

I, John K. Kim, make this Statement of Facts in support of the Petition under 37 CFR 1.47(a) (hereinafter "the Petition") being filed concurrently herewith in the above-identified application. The Petition is being accompanied by a Declaration and Power of Attorney (hereinafter "the Declaration") relating to the present application. As stated in the Petition, the Declaration identifies Mr. Gennadi I. Fedorov, Mr. Frederick B. Hadtke, and Mr. Kiat-Cheong Toh as the inventors of the invention disclosed and claimed in the present application.

My law firm (McCarter & English, LLP) represents Rose Art Industries, Inc. (hereinafter "Rose Art"), which is believed to be the owner of the present application. In accordance with Rose Art's instructions, I filed the present application on December 31, 2003. After filing the application, I contacted the inventors listed above and requested that each of them sign the Declaration. As mentioned in the Petition, all of the inventors signed the Declaration with the exception of Mr. Fedorov. For the sake of completeness, I note that, although Mr. Fedorov was a Rose Art employee at the time the present application was filed with the United States Patent and

Trademark Office, his employment with Rose Art has since ended. Based on the facts set forth below, I have concluded that Mr. Fedorov's recent conduct constitutes a refusal to sign an Oath or Declaration in connection with the present application.

I would respectfully direct the Commissioner's attention to relevant documents which have been attached hereto as Exhibits 1-7. A brief description of each of Exhibits 1-7 is provided below.

Exhibit 1: A one-page letter, dated June 10, 2004, from Mr. John K. Kim of McCarter & English, LLP to Mr. Gennadi I. Fedorov.

Exhibit 2: A one-page letter, dated June 22, 2004, from Mr. John K. Kim of McCarter & English, LLP to Mr. Gennadi I. Fedorov.

Exhibit 3: A one-page letter, labeled "URGENT!!" and dated June 30, 2004, from Mr. John K. Kim of McCarter & English, LLP to Mr. Gennadi I. Fedorov.

Exhibit 4: A two-page letter, labeled "VIA FEDERAL EXPRESS" and dated July 30, 2004, from Mr. John K. Kim of McCarter & English, LLP to Mr. Gennadi I. Fedorov.

Exhibit 5: A one-page Federal Express Tracking Record, printed on August 2, 2004, labeled with Federal Express Tracking Number 621513674934, and corresponding to the July 30, 2004 letter of Exhibit 4.

Exhibit 6: A one-page letter, labeled "VIA FEDERAL EXPRESS" and dated September 24, 2004, from Mr. John K. Kim of McCarter & English, LLP to Mr. Gennadi I. Fedorov.

Exhibit 7: A one-page Federal Express Tracking Record, printed on September 28, 2004, labeled with Federal Express Tracking Number 621513684773, and corresponding to the September 24, 2004 letter of Exhibit 6.


As shown in attached Exhibit 1, on June 10, 2004, I sent Mr. Fedorov an execution copy of the Declaration and requested that he sign and date the same, and return the executed Declaration to me. Subsequently during that same month, I sent Mr. Fedorov two reminder letters containing the same request, the second of which was clearly marked for urgency (see attached Exhibits 2 and 3). On July 30, 2004, I sent Mr. Fedorov a fourth letter containing the same request (see attached Exhibit 4). Although it was my understanding that Mr. Fedorov had already had an opportunity to inspect the contents of the present application while a Rose Art employee, I sent a complete copy of the application to Mr. Fedorov via Federal Express along with my July 30, 2004 letter for his convenience. A tracking record from Federal Express indicates that the July 30, 2004 letter was delivered on July 31, 2004 to Mr. Fedorov's residence in Andover, New Jersey and was signed for by an individual by the name of M. Fedorov (see attached Exhibit 5). On September 24, 2004, I sent Mr. Fedorov yet another reminder letter via Federal Express, repeating my request for him to sign the Declaration, and stating that his failure to respond to my prior letters meant that I could only assume that he was refusing to sign the Declaration (see attached Exhibit 6). A tracking record from Federal Express indicates that the September 24, 2004 letter was delivered on September 25, 2004 to Mr. Fedorov's residence in Andover, New Jersey and was signed for by an individual by the name of D. Fedorov (see attached Exhibit 7).

As evidenced by the documents contained in attached Exhibits 1-7, I have provided Mr. Fedorov with a complete copy of the present application, and have personally made numerous *bona fide* attempts to obtain Mr. Fedorov's signature on the Declaration. In addition, during this time I have personally supervised many attempts by my assistant, Ms. Diane Bodzioch, to reach Mr. Fedorov at his Andover, New Jersey residence by telephone, on which occasions she left messages with individuals, apparently members of Mr. Fedorov's immediate family, requesting Mr. Fedorov's cooperation in signing and returning the Declaration (see attached Exhibit 4). To date, Mr. Fedorov has not responded in any way to any of these requests. In such circumstances, I have concluded

that Mr. Fedorov's failure to respond to my repeated requests constitutes a refusal to sign an Oath or Declaration in the present application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 10/4/04

By: 
John K. Kim
Reg. No. 37002

Mailing Address:

McCARTER & ENGLISH, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 622-4444

NWK2: 1228524.01

John K. Kim

973-848-5366
Fax 973-297-3764
jkim@mccarter.com

EXHIBIT 1

June 10, 2004

McCarter & English, LLP
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100 Mulberry Street
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Newark, NJ 07101-0652
973.622.4444
fax 973.624.7070
www.mccarter.com



Mr. Gennadi I. Fedorov
20 Deer Run
Andover, New Jersey 07821

Re: U.S. Utility Patent Appln. No. 10/749,953 on
BOARD ASSEMBLY
Our Ref.: 67895/40087

Dear Gennadi:

I am attaching hereto a Declaration and Power of Attorney (hereinafter "the Declaration") relating to the above-identified U.S. utility patent application. Please review the attached Declaration carefully and, if all of the representations contained therein are accurate, sign and date the Declaration at the places indicated thereon, no notarization being required. The executed Declaration should then be returned to me in the enclosed self-addressed, self-stamped envelop for filing in the United States Patent and Trademark Office.

In order to memorialize the fact that your right and interest relating to this application have been assigned to Rose Art Industries, Inc., I have prepared an appropriate Assignment. Please sign and date the Assignment, which is attached hereto, before a Notary Public and then return the executed Assignment to me along with the executed Declaration.

If you have any questions concerning this matter, please do not hesitate to contact me. In the meantime, while thanking you for your anticipated cooperation, I remain,

Very truly yours,

McCARTER & ENGLISH, LLP


By: John K. Kim

JKK/dmb
Encls.

cc: Ms. Nellie Mahabir (via first class mail – w/o encls.)

NWK2: 1188442.01

John K. Kim

973-848-5366
Fax 973-297-3764
jkim@mccarter.com

EXHIBIT 2

June 22, 2004

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102-4056
tel 973.622.4444
fax 973.624.7070
www.mccarter.com



ATTORNEYS AT LAW

Mr. Gennadi I. Fedorov
20 Deer Run
Andover, New Jersey 07821

Re: U.S. Utility Patent Appln. No. 10/749,953 on
BOARD ASSEMBLY
Our Ref.: 67895/40087

Dear Gennadi:

Further to my letter dated June 10, 2004 and my assistant's phone call to your home last week, this is to remind you that we are waiting to receive the executed Declaration and Power of Attorney and the executed Assignment in connection with the above-identified patent application. Please note that the Assignment must be notarized, while no notarization is required for the Declaration. Please return the executed documents to me in the stamped, self-addressed Express Mail envelope which was enclosed with my June 10th letter.

If you have any questions concerning the execution of the documents, please do not hesitate to contact me. In the meantime, I note that the current due date for filing the documents is **July 9, 2004**. In such circumstances, I would appreciate receiving the executed documents by July 1, 2004.

While thanking you for your anticipated cooperation, I remain,

Very truly yours,

McCARTER & ENGLISH, LLP

By: John K. Kim

JKK/dmb

cc: Ms. Nellie Mahabir (via first class mail)

NWK2: 1192985.01

HARTFORD
860.275.6700

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203.324.1800

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212.609.6800

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PHILADELPHIA
215.979.3800

WILMINGTON
302.984.6300

BALTIMORE
410.659.8500

John K. Kim

973-848-5366
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jkim@mccarter.com



EXHIBIT 3

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
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fax 973.624.7070
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ATTORNEYS AT LAW

URGENT!!!

June 30, 2004

Mr. Gennadi I. Fedorov
20 Deer Run
Andover, New Jersey 07821

Re: U.S. Utility Patent Appln. No. 10/749,953 on
BOARD ASSEMBLY
Our Ref.: 67895/40087

Dear Gennadi:

Further to my letter dated June 22, 2004, this is to remind you that we are waiting to receive the executed Declaration and Power of Attorney and the executed Assignment in connection with the above-identified patent application. Please note that the Assignment must be notarized, while no notarization is required for the Declaration. Please return the executed documents to me in the stamped, self-addressed Express Mail envelope which was enclosed with my June 10th letter.

If you have any questions concerning the execution of the documents, please do not hesitate to contact me. In the meantime, I note that the current due date for filing the documents is **July 9, 2004**. In such circumstances, I would appreciate receiving the executed documents by July 6, 2004.

While thanking you for your anticipated cooperation, I remain,

Very truly yours,

McCarter & English, LLP

By: John K. Kim

JKK/dmb

cc: Ms. Nellie Mahabir (via first class mail)

NWK2: 1196385.01

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John K. Kim

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jkim@mccarter.com

EXHIBIT 4

McCarter & English, LLP
Four Gateway Center
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fax 973.624.7070
www.mccarter.com



July 30, 2004

ATTORNEYS AT LAW

VIA FEDERAL EXPRESS

Mr. Gennadi I. Fedorov
20 Deer Run
Andover, New Jersey 07821

Re: U.S. Utility Appln. No. 10/749,953 on
BOARD ASSEMBLY
Our Ref.: 67895/40087

Dear Gennadi:

I have forwarded to you a Declaration and Power of Attorney ("the Declaration") and an Assignment for your execution in connection with the above-identified application (see my letter of June 10, 2004). Previously, I forwarded to you a few letters with reminders that I am waiting to receive the executed Declaration and Assignment (see my letter of June 22 and June 30, 2004). Also, my assistant, Diane Bodzioch, left several telephone messages at your home concerning the need to execute the Declaration and Assignment and return same to me for filing in the United States Patent and Trademark Office. To date, I have not received the executed documents or heard back from you concerning same.

Attached hereto is a copy of my June 10th letter together with a complete copy of the present application and copies of the Declaration and Assignment forwarded to you together with the June 10th letter. As requested in the June 10th letter, please review the attached Declaration carefully and, if all of the representations contained therein are accurate, then sign and date the Declaration at the places indicated thereon, no notarization being required. The executed Declaration should then be returned to me in the enclosed self-addressed, self-stamped envelop for filing in the United States Patent and Trademark Office.

In order to memorialize the fact that your ownership interest in and to this application, as well as the invention disclosed and claimed therein, have been assigned to Rose Art Industries, Inc., please sign and date the enclosed Assignment before a Notary Public. The executed Assignment should then be returned to me along with the executed Declaration.

HARTFORD
860.275.6700

STAMFORD
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Tracking number 621513674934
Signed for by M.FEDOROV
Ship date Jul 30, 2004
Delivery date/time Jul 31, 2004 9:52 am

Reference number 1033219.0N/A67895-40085-
Delivered to Recipient
Delivery location ANDOVER NJ
Service type Priority Overnight

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| Date/Time | Status | Location | Comments |
|--------------|---|--------------|--------------------------------|
| Jul 31, 2004 | 9:52 am Delivered | ANDOVER NJ | |
| | 9:31 am On FedEx vehicle for delivery | BUDD LAKE NJ | |
| | 9:24 am On FedEx vehicle for delivery | BUDD LAKE NJ | |
| | 8:25 am Arrived at FedEx Destination Location | BUDD LAKE NJ | |
| Jul 30, 2004 | 8:22 pm Pickup status | ELIZABETH NJ | Pre-routed meter pkg picked up |

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John K. Kim

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EXHIBIT 6

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fax 973.624.7070
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September 24, 2004

VIA FEDERAL EXPRESS

Mr. Gennadi I. Fedorov
20 Deer Run
Andover, New Jersey 07821

Re: U.S. Patent Appln. No. 10/749,953 on
BOARD ASSEMBLY
Our Ref.: 67895/40087

Dear Gennadi:

Further to my letter of July 30, 2004, this is to remind you that we are waiting to receive the executed Declaration and Power of Attorney ("the Declaration") and Assignment relating to the above-identified application. Given that you have not responded to any of my prior letters, I can only assume that you are refusing to sign the Declaration and the Assignment. If this is incorrect, please let me know immediately.

If you have any questions concerning this matter, please do not hesitate to contact me. In the meantime, I await your reply to this letter.

Very truly yours,

McCARTER & ENGLISH, LLP

By: John K. Kim

JKK/dmb

cc: Ms. Nellie Mahabir (via first class mail)

NWK2: 1228958.01

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Track Shipments
Detailed Results

EXHIBIT 7

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| | | | |
|------------------------|-----------------------|--------------------------|-------------------|
| Tracking number | 621513684773 | Reference | 1036805.0N/A678 |
| Signed for by | D.FEDROV | | 95-40087- |
| Ship date | Sep 24, 2004 | | |
| Delivery date | Sep 25, 2004 10:13 AM | Delivery location | ANDOVER, NJ |
| | | Delivered to | Residence |
| | | Service type | Priority Envelope |
| | | Weight | 1.0 lbs. |

Status Delivered

| Date/Time | Activity | Location | Details |
|--------------|----------|--|---------------|
| Sep 25, 2004 | 10:13 AM | Delivered | ANDOVER, NJ |
| | 9:34 AM | On FedEx vehicle for delivery | BUDD LAKE, NJ |
| | 8:33 AM | At local FedEx facility | BUDD LAKE, NJ |
| | 7:45 AM | In transit | NEWARK, NJ |
| Sep 24, 2004 | 10:15 PM | Left origin | ELIZABETH, NJ |
| | 8:21 PM | Picked up | ELIZABETH, NJ |
| | 4:49 PM | Package data transmitted to FedEx; package not in FedEx possession | |
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